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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jan 09, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RAMON RAMIREZ SILVA,

No. 4:22-CV-5112-TOR

Plaintiff,

ORDER DISMISSING ACTION

v.

CHERYL STRANGE,

Defendant.

28 U.S.C. § 1915(g)

By Order filed October 25, 2022, the Court advised Plaintiff Ramon Ramirez Silva, a prisoner currently housed at the Washington State Penitentiary (“WSP”), of the deficiencies with his *pro se* civil rights complaint and directed him to file an amended civil rights complaint within sixty (60) days if he intended to proceed with this action. ECF No. 9 at 13–17. Plaintiff was cautioned that if he failed to either file an amended complaint or a motion to voluntarily dismiss his complaint by December 27, 2022 as directed, the Court would dismiss the complaint for failure to state a claim under 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2). *Id.* at 15–16. Plaintiff has filed nothing further in this action.

ORDER DISMISSING ACTION--1

1 For the reasons set forth in the Court's Order to Amend or Voluntarily
2 Dismiss Complaint and Order Denying Motion for Temporary Restraining Order
3 and Motion for Preliminary Injunction, ECF No. 9, Plaintiff's complaint, ECF No.
4 1, is **DISMISSED** without prejudice for failure to state a claim against Defendant
5 upon which relief may be granted. 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2).

6 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who
7 brings three or more civil actions or appeals which are dismissed as frivolous or for
8 failure to state a claim will be precluded from bringing any other civil action or
9 appeal *in forma pauperis* "unless the prisoner is under imminent danger of serious
10 physical injury." 28 U.S.C. § 1915(g). **Plaintiff is advised to read the statutory**
provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's complaint
counts as one of the three dismissals allowed by 28 U.S.C. § 1915(g) and may
adversely affect his ability to file future claims.

14 **Accordingly, IT IS ORDERED:**

15 1. Plaintiff's complaint, ECF No. 1, is **DISMISSED without prejudice** for
16 failure to state a claim upon which relief may be granted under 28 U.S.C.
17 §§ 1915A(b)(1) and 1915(e)(2).

18 2. This dismissal will count as a "strike" under 28 U.S.C. § 1915(g).

19 3. Plaintiff's *in forma pauperis* status is hereby **REVOKED**.

1 4. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of
2 this Order would not be taken in good faith.

3 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
4 enter judgment, provide copies to Plaintiff, and **CLOSE** the file. The Clerk of Court
5 is further directed to forward a copy of this Order to the Office of the Attorney
6 General of Washington, Corrections Division.

7 **DATED** this 9th day of January 2023.



8 A handwritten signature in blue ink that reads "Thomas O. Rice".
9 THOMAS O. RICE
10 United States District Judge